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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/379,051 08/23/99 KUMP

W 201804

LEYDIG VOIT & MAYER LTD  
TWO PRUDENTIAL PLAZA  
SUITE 4900  
180 NORTH STETSON  
CHICAGO IL 60601-6780

IM62/0119

EXAMINER

CHANEY, C

ART UNIT

PAPER NUMBER

1745

DATE MAILED: 01/19/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/379,051**

Applicant(s)  
**Kump et al.**

Examiner  
**Carol Chaney**

Group Art Unit  
**1745**



☒ Responsive to communication(s) filed on 8-23-99

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-17 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 1-9 is/are allowed.

☒ Claim(s) 10-17 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "adversely affecting" in claim 2 is a relative term which renders the claim indefinite. The term "adversely affecting" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Applicants' specification fails to define criteria for a seal to be "adversely affected".

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 10-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Stocchiero (US Patent 4,898,795).

Stocchiero discloses lead-acid batteries which include "elastic and deformable pole seats." (Note column 2, lines 14-16.) As shown in Fig. 1, the battery cover includes a diaphragm portion which is an expandable portion of the cover. (Note Fig. 1, reference numeral 6.) The diaphragm will compress, or flex, as the grids age and lengthening of the pole occurs. (Note column 3, lines 47-57.) As may be seen in Figs. 1 and 2, the expandable cover area contains two regions. The first, illustrated as reference numeral 9, is substantially planar, and the second, illustrated at reference numeral 7, is corrugated, or sinusoidal, in cross section.

***Allowable Subject Matter***

5. Claims 1-9 are allowed.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol Chaney whose telephone number is (703) 305-3777. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Maria Nuzzolillo, can be reached on (703) 305-3776. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Carol Chaney  
Patent Examiner  
Art Unit 17  
January 13, 2000